

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DARYL TOEWS**, on February 12, 1999 at 3:28 P.M., in Room 402 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Daryl Toews, Chairman (R)  
Sen. Bill Glaser, Vice Chairman (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis (R)  
Sen. John Hertel (R)  
Sen. Bob Keenan (R)  
Sen. Mike Sprague (R)  
Sen. Spook Stang (D)  
Sen. Mignon Waterman (D)  
Sen. Jack Wells (R)

**Members Excused:** Sen. Debbie Shea (D)

**Members Absent:** None.

**Staff Present:** Eddye McClure, Legislative Branch  
Janice Soft, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 422, 2/9/1999  
Executive Action: None

**HEARING ON SB 422**

**Sponsor:** SEN. DARYL TOEWS, SD 48, Lustre

**Proponents:** Larry Stollfuss, Supt, Choteau County Schools

**Opponents:** Loran Frazier, School Administrators of Montana  
Lance Melton, Montana School Boards Association  
Bruce Messinger, Superintendent, Helena Schools

**Informational:** Don Waldron, Montana Rural Education Association

(**CHAIRMAN DARYL TOEWS** relinquished the chair to **VICE CHAIRMAN BILL GLASER** while presenting **SB 422**).

**Opening Statement by Sponsor:**

**SEN. DARYL TOEWS, SD 48, Lustre,** said the reason for part of the discussion around the development of **SB 422** was charter schools and the voucher system. He thought if there was a way to get an alternative system working better, it should be considered. When kids attended schools in other districts, some districts waived tuition while others didn't. He said he attended a School Boards meeting in his district just before the Legislative Session started, and asked these boards if they had a problem with his bringing this bill and they all said they didn't -- they could live without having tuition. He reiterated this happened in his part of Montana, but perhaps that wasn't how other parts felt. He said in his part of the state, there was a district where the suicide rate was 200 or 300 times greater than another; if his child was attending there, he would want to change schools. **SEN. TOEWS** said if the tuition impediment was removed, another alternative would open for parents and students.

He explained **SB 422** did away with tuition and put money into special education -- \$1.2 to \$1.3 million. He referred to Page 8, Lines 26-28, and explained the receiving school could deny an attendance agreement if they determined there was no room, the transferee was a disciplinary problem, etc. Page 10, Line 4, would be amended out because the mandatory attendance agreements would remain in place. His next reference was Page 22, Line 8; when the child left the district, the ANB money would follow him and the receiving district would receive special ed money, if applicable. His summation was **SB 422** addressed the issue that public education should provide parents the biggest opportunity and challenged the public schools to do better.

**Proponents' Testimony:**

**Larry Stollfuss, Superintendent, Choteau County Schools,** said one of the reasons he supported the bill was because of the way they paid mandatory tuition -- it was paid with dollars collected for state equalization and those dollars were never intended to pay

tuition for kids who crossed county lines. He said there was talk of shortfalls in equalization money; yet, they were paying tuition with money that could be used to benefit kids all across the state. He said he supported **SB 422** because it was similar to a launching pad because, if it passed, it could make other things happen in Montana, i.e. redistricting because in some cases kids came across county lines in masses and attended their schools. He said he believed people should pay taxes where their kids went to school and tuition shouldn't be worried about, i.e. the Helena schools should receive tax, and not tuition, dollars. He said he couldn't speak for the County Superintendent's Association in general, but he could speak for those counties which were very rural, and they would like to see tuition removed.

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**Opponents' Testimony:**

**Loran Frazier, School Administrators of Montana (SAM)**, said one of their biggest concerns was school districts who would have a large financial adjustment because of **SB 422**, and he didn't see that it would be eased. He explained if a district was already crunched at 100% and going down, and another \$300-\$400 thousand was removed from its budget, nothing in the bill eased the pain of doing away with tuition. He suggested the July 1 effective date would not be helpful either, because teachers would have to be notified in June and it would be too late by then to take another big hit. He said he had an amendment **EXHIBIT (eds35a01)** and explained the language in the bill was fine unless there was a district which had a current policy which said if students were inclusion students, the district might want to keep that load down to 20 or 22; accreditation standards said classroom size could be 20 or 30 students which would make it look like there was an opening for six or seven kids. He next referred to Section 17 and wondered from where the \$2,500 and \$5,000 figures came; Section 19, Page 24, Line 7, and was concerned about where the student would be counted. He thought the home district needed the ability to allow those students back, which affected the bonded indebtedness.

He said he also had a resolution from **Montana School Boards Association (MSBA)** **EXHIBIT (eds35a02)** which he would distribute on behalf of MSBA because **Lance Melton** couldn't be present.

**Bruce Messinger, Superintendent, Helena Public Schools**, said Helena had about 330 students who were tuition students and who generated about \$500,000 annually in their operating fund. He wondered how his district would manage that transition, assuming those students would continue to attend there; their

instructional and building structure was based on the assumption those students would remain in attendance. He said philosophically he agreed with **SEN. TOEWS** when he said students should be allowed to attend the district of choice, and if full funding followed those students, his concern would be taken care of. It was his opinion that in redistricting where taxes and not tuition was paid to the district, would be easier said than done because the land would be redistricted to follow the students wherever they went and would be very confusing. **Mr. Messinger** contended if there was going to be intra- and inter-district choice, the fundamental basis would have to be full equalization for every student and it would have to follow to the district of choice. However, **SB 422** didn't say that; therefore, he stood in opposition to the bill because of the effect it would have on their district.

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**Informational Testimony:**

**Don Waldron, Montana Rural Education Association (MREA)**, said their members were divided but some of their concerns would be eased by the amendments brought by SAM. Their biggest concern, however, was the special ed area -- they thought \$5,000 wasn't enough; rather, it should be the actual cost of educating those students. He suggested the issue could be simplified by saying that where a student lived, he or she could attend school, let them worry about the transportation, and have the state fund everything at 80%.

**Questions from Committee Members and Responses:**

**SEN. ALVIN ELLIS** asked why the tuition was done away with, instead of having the home district follow the student with tuition if the other criteria was met. **SEN. DARYL TOEWS** said it was because currently tuition was not a set amount and the sending school didn't have a mandate requiring payment from the receiving school.

**SEN. ELLIS** asked if the purpose of the bill wasn't to get a significant reaction from the donor school, i.e. competition for the student. **SEN. TOEWS** said he wanted the proper reaction -- improving education in the environment in which they were, rather than just the money.

**SEN. ELLIS** asked how else that could be done, besides creating competition for the youngster. **SEN. TOEWS** said tuition ranged from \$400 to \$2,000. He declared **SB 422** was open to be worked on because it wasn't a completed document.

**SEN. JON ELLINGSON** asked if currently the tuition was paid by parents instead of the sending district. **SEN. TOEWS** said if a district's policy was to accept students, its tuition policy had to be the same for everyone -- either waive or charge for all. If the district decided to charge, and if the sending district didn't pay, the parent would have to pay the tuition bill.

**SEN. ELLINGSON** reiterated the sending district had the option to send money with the transferred student or having the parents pay. **SEN. TOEWS** confirmed by saying that was correct as long as the district's policy was the same for everyone.

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**SEN. BOB KEENAN** asked if the purpose of the bill was to improve education. **SEN. TOEWS** affirmed.

**SEN. MIGNON WATERMAN** asked if most of the Canyon Creek students came to Helena for elementary and middle school and was told they did. She asked for the numbers. **Cliff Roessner, District Clerk, Helena Schools**, said Helena educated about 160 out of 180 students from that district.

**SEN. WATERMAN** commented if they could send those students to Helena tuition-free, and got to keep the tax base for the 180 kids, what would be the incentive for them to educate those 20.

**SEN. WATERMAN** asked about a situation where Hutterites in an area sent all their students to another district and paid tuition.

**SEN. TOEWS** said no district forced its students to stay there because the ANB money followed the child, but not the tax base.

**SEN. WATERMAN** asked what would encourage Canyon Creek to consolidate with Helena. **Madalyn Quinlan, Office of Public Instruction (OPI)**, said there were Hutterite colonies who had a public school district and public school within the colony itself and there were school districts which had inter-local agreements to provide education outside the territory of the district for other Hutterite colonies.

**SEN. WATERMAN** asked if the latter type would be affected by **SB 422** and **Ms. Quinlan** said she didn't think so.

**SEN. WATERMAN** asked why a district would enter into an inter-local agreement if they could send the kids tuition-free.

**Madalyn Quinlan** said the agreement was for the kids to remain in a school and for another school to come into the district to

provide the services. Therefore, a payment would have to be made to the district.

**SEN. WATERMAN** again commented there was no incentive for Canyon Creek, and other districts like it, to consolidate. **Ms. Quinlan** said if there were not enough students for them to have a viable education program, they might be interested in consolidating.

**SEN. WATERMAN** asked if the sponsor would consider that if at least 50% of the students attended out-of-district for a period of time, consolidation would be forced. **SEN. TOEWS** said if the receiving district refused to accept them because they weren't bringing enough money, the sending district was still responsible to educate those kids. It was his opinion the impetus would be on them to provide a better school so the kids would want to stay.

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**SEN. ELLIS** stated one of the problems was the state provided only 73% of the base budget on the average and all schools were not the same, which was why schools looked at tuition differently. Some schools got a lot of Guaranteed Tax Base (GTB) which meant the 27% had to be provided locally. He asked the sponsor if he would consider having districts charge the 27%, (roughly \$1,300) and then the receiving districts could charge more if they wanted to. **SEN. TOEWS** said he would consider it but he wanted to be careful he didn't lose what he was trying to accomplish, i.e. allowing people to have a choice in a way that would not cause major struggle between school districts.

**SEN. ELLIS** asked the same question of **Bruce Messinger** and was told the issue for Helena was declining elementary enrollment and if the dollars followed the students, they would be interested in having the students from the outlying areas; however, their level of state support wasn't adequate if it wasn't complemented with tuition. If that didn't happen, it would burden the education Helena provided for its in-district students because the dollars would have to be subsidized with the students already in their districts -- that was a sensitive issue with taxpayers. He said if it was an even playing field, their district would like to continue receiving the students.

**SEN. ELLIS** asked if \$1,300 would make it even enough. **Mr. Messinger** said at the elementary level it would be reasonable but not at the high school level.

**SEN. BILL GLASER** commented this bill had been brought before the Committee during the 1997 Session and wondered why the sponsor

brought it again. **SEN. TOEWS** said **SB 422** was significantly different in that this bill would be a state-wide policy because currently, the policy concerning the state paying across-county-lines tuition rates was flawed and would end some day. He said when higher ed was funded, new student enrollment was funded "on the margin" which was significantly less than full funding. He said as far as he knew, the University System had been happy with that arrangement; therefore, he felt it was possible for a district to do the same.

**SEN. GLASER** recounted the sponsor saw the bill as an opportunity for choice and economic development for a community coming together. **SEN. TOEWS** said it could be, especially in eastern Montana. He said he came from a district which had a lot of tuition; in fact, 20% of its budget was tuition.

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**SEN. WATERMAN** asked what would stop a district denying attendance to out-of-district students unless they just happened to be 6'2" and played great basketball. **SEN. TOEWS** said the district could be creative in setting its acceptance policy.

**SEN. ELLIS** said he interpreted the suggestion of redistricting as a policy for the state of Montana, rather than configuration for the district to meet the changed enrollment; however, he wondered the real intent. **Larry Stollfuss** commented on the natural geographic boundary when driving toward Boulder. Since the concern of many in the room was the Helena School District, the people who lived on this side of this geographic boundary and whose kids attended school in the Helena District should really be part of the Helena District. There were other districts like that throughout Montana -- where almost 100% of the students in a geographic area attended school somewhere else because it was easier to get somewhere else -- people made the choices. He explained he had looked through old records in the County Superintendent's Office and noticed that requests for district boundaries was granted because of a geographic hardship. He contended those hardships had not changed -- the difference was today kids got into their Suburban, met the school bus and went to school somewhere else. **Mr. Stollfuss** said **SB 422** was a way to get the process started.

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**SEN. WATERMAN** commented if **SB 422** passed, she didn't think the district previously referred to, where 75% of its students lived on this end of the valley and were closer to Helena than to their home district, would voluntarily give up the tax base of the

cement plant because that tax base would fund the 25% of the students remaining. **Mr. Stollfuss** said one of the keys may be to not use "voluntary." He reminded the Committee when students crossed county lines, that tuition was paid with state equalization dollars and that was where the present system fell apart. He maintained the present system should be eliminated and a new one created.

**SEN. WATERMAN** asked for input from **SEN. EVE FRANKLIN, SD 21, Great Falls**, who said this issue was also brought to her by constituents and distributed a copy of the letter **EXHIBIT (eds35a03)**. She suggested Montana was in a changing demographic situation that would have to be addressed, and within her heart she basically supported the idea that rural schools be allowed to continue.

**Closing by Sponsor:**

**SEN. DARYL TOEWS** agreed times were changing and there was a problem with some alternatives. He suggested a way could be found to provide an opportunity and greater flexibility inside the public school system. If the money being invested in Montana schools was to have any impact, parents would need to be allowed to move their children wherever they needed to move; in fact, that premise was primarily why he brought **SB 422**. He felt the Helena issue would be settled at some point in time and when that happened, a solution would need to be in place. He said the bill was not a completed document; rather, it was a place from which to start discussion.



**ADJOURNMENT**

Adjournment: 4:20 P.M.

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SEN. DARYL TOEWS, Chairman

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JANICE SOFT, Secretary

DT/JS

**EXHIBIT (eds35aad)**